
HOUSE BILL 1735

State of Washington

55th Legislature

1997 Regular Session

By Representatives Reams, Quall, Doumit, Radcliff, Cairnes, D. Sommers, Hankins, Zellinsky, Sheldon, Costa, Sehlin, Dyer, Pennington, Ogden, Carlson, Scott, Mitchell, Morris, Gardner, Kenney, Cooke, Kessler, Mielke, Hatfield, Romero, Dickerson, Poulsen, Linville, Johnson, Blalock, Tokuda, Cooper, Murray, Dunshee, Wood, Mason, Clements, Keiser, Mulliken, Chopp and Thompson

Read first time 02/06/97. Referred to Committee on Government Administration.

1 AN ACT Relating to expanding employment opportunities for people
2 with disabilities; amending RCW 43.19.530 and 43.19.1906; adding new
3 sections to chapter 43.19 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature to
6 expand employment opportunities for people with disabilities. The
7 legislature recognizes the necessity of strengthening the state's
8 policy of creating employment opportunities for persons with
9 disabilities and enabling achievement of maximum personal independence
10 through expanded employment opportunities. Chapter . . ., Laws of 1997
11 (this act) shall accomplish this intent by encouraging supported
12 employment positions for people with disabilities within state
13 government offices and providing state agencies with a more effective
14 process for purchasing products and services from community
15 rehabilitation programs that operate programs serving people with
16 disabilities.

17 (2) By creating a ceiling for total purchase dollars that agencies
18 may expend for purchasing products and services from community
19 rehabilitation programs, the legislature does not intend to create a

1 quota for total dollar purchases. Instead, the legislature seeks to
2 gradually introduce the negotiated bid process for purchasing products
3 and services from community rehabilitation programs and to provide a
4 flexible purchasing framework that allows agencies to negotiate the
5 type, quantity, and price of products produced by and services provided
6 by community rehabilitation programs.

7 (3) The legislature shall review and make findings with respect to
8 programs operating under chapter . . . , Laws of 1997 (this act) by
9 December 15, 2002.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires otherwise.

12 (1) "Agency" means all offices, departments, agencies,
13 institutions, boards, and commissions of state government including
14 those headed by an elected official but not including institutions of
15 higher education.

16 (2) "Central nonprofit agency" means a private not-for-profit
17 organization with a network of established connections with community
18 rehabilitation programs in Washington and a current working
19 understanding of the contracting and negotiated bid processes.

20 (3) "Certification" means the process by which the commission
21 approves community rehabilitation programs so that they may participate
22 in the negotiated bid process with state agencies.

23 (4) "Commission" means the commission for purchases from community
24 rehabilitation programs.

25 (5) "Community rehabilitation program" means a program that is
26 operated under criteria established by the commission and which
27 directly provides or facilitates the provision of vocational services
28 to people with disabilities to enable them to maximize opportunities
29 for employment, including career advancement.

30 (6) "Disabilities" means developmental disabilities as defined in
31 RCW 71A.10.020, attributable to mental retardation, cerebral palsy,
32 autism, or other neurological or other condition of an individual found
33 by the secretary of the department of social and health services or his
34 or her designee to be closely related to mental retardation or require
35 treatment similar to that required for individuals with mental
36 retardation, which disability originates before the individual attains
37 age eighteen, has continued or can be expected to continue

1 indefinitely, and constitutes a substantial handicap for the
2 individual.

3 (7) "Equitable market value" means the price agreed upon by state
4 agencies and community rehabilitation programs in the negotiated bid
5 process. In terms of price per unit or job, the equitable market price
6 determined through the negotiated bid process is based upon current
7 market pricing for goods or services of equal value, including any or
8 all of the following factors: Last price bid, established pricing as
9 derived through averaging of current comparable contracts, the effect
10 of changes in specifications, market fluctuation, supply costs, and
11 other applicable factors.

12 (8) "Negotiated bidding" is the process by which the community
13 rehabilitation programs negotiate directly with state agencies to
14 establish prices for products and services and negotiate contracts for
15 purchases of products and services.

16 (9) "Supported employment" means employment for people with
17 disabilities who need long-term ongoing support in order to succeed on
18 the job. The job should provide opportunities for interaction with
19 coworkers without disabilities and should be individually tailored to
20 the skills of the person with a disability. Supported employment
21 positions pay people with disabilities the same rate as employees
22 without disabilities who do the same kind of work.

23 NEW SECTION. **Sec. 3.** (1) State agencies shall encourage and
24 establish supported employment positions in state government offices.
25 The governor shall submit a report of progress to the appropriate
26 legislative committees by December 15th of each odd-numbered year.

27 (2) The department of social and health services or its successor
28 agency shall develop and disseminate supported employment information
29 to educate managers, supervisors, and other staff in all areas of state
30 government.

31 (3) The department of personnel shall provide assistance with
32 respect to developing and disseminating supported employment
33 information as needed or requested by the department of social and
34 health services or its successor agency.

35 (4) Supported employment is not intended to displace current
36 employees or abrogate any reduction in force rights.

1 NEW SECTION. **Sec. 4.** (1) A commission for purchases from
2 community rehabilitation programs is created. The commission is
3 composed of five members who are appointed by the governor, consisting
4 of one representative from:

5 (a) The department of general administration;

6 (b) The health and rehabilitation services division of the
7 department of social and health services or the agency's successor;

8 (c) The governor's committee on disability issues and employment;

9 (d) An advocacy organization for people with disabilities; and

10 (e) A community rehabilitation program.

11 (2) Members of the commission serve four-year terms. Members may
12 not receive compensation for their service on the commission, but they
13 are entitled to reimbursement for actual and necessary expenses
14 incurred in performing their duties as members as set forth in RCW
15 43.03.220.

16 (3) The community rehabilitation program representative serves as
17 the chair.

18 (4) The commission members shall appoint five additional at-large
19 members.

20 NEW SECTION. **Sec. 5.** The commission shall:

21 (1) Develop and administer policies and procedures that expand the
22 market for products and services provided by community rehabilitation
23 programs, consistent with sections 4 through 12 of this act;

24 (2) Develop criteria for certification and certify community
25 rehabilitation programs;

26 (3) Monitor the negotiated bid process;

27 (4) Identify potential contracts between state agencies and
28 community rehabilitation programs;

29 (5) Establish and collect the certification fee from community
30 rehabilitation programs;

31 (6) Establish a procedure for determining when the ceiling has been
32 reached; and

33 (7) Adopt rules necessary to facilitate the purchase of products
34 from community rehabilitation programs.

35 NEW SECTION. **Sec. 6.** The commission shall be funded through a
36 certification fee imposed upon community rehabilitation programs as
37 part of the certification process.

1 NEW SECTION. **Sec. 7.** The commission may:

2 (1) Contract with a central nonprofit agency for assistance in
3 carrying out its duties; and

4 (2) Solicit grants to offset expenses associated with carrying out
5 the provisions of this chapter.

6 NEW SECTION. **Sec. 8.** (1) State agencies are required to purchase
7 products or services from certified community rehabilitation programs
8 that meet all of the following criteria:

9 (a) The community rehabilitation program can provide products or
10 services requested by the agency;

11 (b) The products or services meet the agency's expectation of
12 quality; and

13 (c) The agencies and the community rehabilitation program
14 successfully negotiate an equitable market value through a good faith
15 negotiated bid process.

16 (2) A community rehabilitation program seeking to bid on a contract
17 shall notify the agency in writing in the time and manner required by
18 the commission.

19 (3) A representative from a state agency seeking to purchase
20 products or services shall meet with representatives from the community
21 rehabilitation program and the central nonprofit agency. All
22 representatives shall make a good faith effort to negotiate a contract
23 containing an equitable market value price for its corresponding
24 specifications.

25 NEW SECTION. **Sec. 9.** To be eligible to negotiate contracts under
26 chapter . . . , Laws of 1997 (this act), a community rehabilitation
27 program must be certified by the commission. The commission may
28 certify community rehabilitation programs that do all of the following:

29 (1) Meet standards established by the commission, which may include
30 standards established by a recognized authority on rehabilitation
31 standard of practice;

32 (2) Meet all applicable business and employment guidelines from the
33 state and federal government; and

34 (3) Complete an application created and approved by the commission
35 and provide proof of completion of the application.

1 NEW SECTION. **Sec. 10.** Total state agency purchases from community
2 rehabilitation programs through the negotiated bid process as set forth
3 in chapter . . . , Laws of 1997 (this act) may not exceed a total of two
4 and one-half percent of total annual state budget dollars for goods and
5 services according to the office of financial management.

6 **Sec. 11.** RCW 43.19.530 and 1977 ex.s. c 10 s 2 are each amended to
7 read as follows:

8 The state agencies and departments are hereby authorized to
9 purchase products and/or services manufactured or provided by sheltered
10 workshops and programs of the department of social and health services,
11 only after the ceiling for the purchase of products and services from
12 community rehabilitation programs as set forth in sections 1 through 10
13 of this act has been reached. Such purchases shall be at the fair
14 market price of such products and services as determined by the
15 division of purchasing of the department of general administration. To
16 determine the fair market price the division shall use the last
17 comparable bid on the products and/or services or in the alternative
18 the last price paid for the products and/or services. The increased
19 cost of labor, materials, and other documented costs since the last
20 comparable bid or the last price paid are additional cost factors which
21 shall be considered in determining fair market price. Upon the
22 establishment of the fair market price as provided for in this section
23 the division is hereby empowered to negotiate directly with sheltered
24 workshops or officials in charge of the programs of the department of
25 social and health services for the purchase of the products or
26 services.

27 **Sec. 12.** RCW 43.19.1906 and 1995 c 269 s 1404 are each amended to
28 read as follows:

29 Insofar as practicable, all purchases and sales shall be based on
30 competitive bids, and a formal sealed bid procedure shall be used as
31 standard procedure for all purchases and contracts for purchases and
32 sales executed by the state purchasing and material control director
33 and under the powers granted by RCW 43.19.190 through 43.19.1939. This
34 requirement also applies to purchases and contracts for purchases and
35 sales executed by agencies, including educational institutions, under
36 delegated authority granted in accordance with provisions of RCW

1 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is
2 not necessary for:

3 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
4 sealed bidding procedure would prevent or hinder the emergency from
5 being met appropriately;

6 (2) Purchases not exceeding thirty-five thousand dollars, or
7 subsequent limits as calculated by the office of financial management:
8 PROVIDED, That the state director of general administration shall
9 establish procedures to assure that purchases made by or on behalf of
10 the various state agencies shall not be made so as to avoid the thirty-
11 five thousand dollar bid limitation, or subsequent bid limitations as
12 calculated by the office of financial management: PROVIDED FURTHER,
13 That the state purchasing and material control director is authorized
14 to reduce the formal sealed bid limits of thirty-five thousand dollars,
15 or subsequent limits as calculated by the office of financial
16 management, to a lower dollar amount for purchases by individual state
17 agencies if considered necessary to maintain full disclosure of
18 competitive procurement or otherwise to achieve overall state
19 efficiency and economy in purchasing and material control. Quotations
20 from four hundred dollars to thirty-five thousand dollars, or
21 subsequent limits as calculated by the office of financial management,
22 shall be secured from at least three vendors to assure establishment of
23 a competitive price and may be obtained by telephone or written
24 quotations, or both. The agency shall invite at least one quotation
25 each from a certified minority and a certified women-owned vendor who
26 shall otherwise qualify to perform such work. Immediately after the
27 award is made, the bid quotations obtained shall be recorded and open
28 to public inspection and shall be available by telephone inquiry. A
29 record of competition for all such purchases from four hundred dollars
30 to thirty-five thousand dollars, or subsequent limits as calculated by
31 the office of financial management, shall be documented for audit
32 purposes. Purchases up to four hundred dollars may be made without
33 competitive bids based on buyer experience and knowledge of the market
34 in achieving maximum quality at minimum cost: PROVIDED, That this four
35 hundred dollar direct buy limit without competitive bids may be
36 increased incrementally as required to a maximum of eight hundred
37 dollars, if warranted by increases in purchasing costs due to
38 inflationary trends;

1 (3) Purchases which are clearly and legitimately limited to a
2 single source of supply and purchases involving special facilities,
3 services, or market conditions, in which instances the purchase price
4 may be best established by direct negotiation;

5 (4) Purchases of insurance and bonds by the risk management office
6 under RCW 43.19.1935;

7 (5) Purchases and contracts for vocational rehabilitation clients
8 of the department of social and health services: PROVIDED, That this
9 exemption is effective only when the state purchasing and material
10 control director, after consultation with the director of the division
11 of vocational rehabilitation and appropriate department of social and
12 health services procurement personnel, declares that such purchases may
13 be best executed through direct negotiation with one or more suppliers
14 in order to expeditiously meet the special needs of the state's
15 vocational rehabilitation clients;

16 (6) Purchases by universities for hospital operation or biomedical
17 teaching or research purposes and by the state purchasing and material
18 control director, as the agent for state hospitals as defined in RCW
19 72.23.010, and for health care programs provided in state correctional
20 institutions as defined in RCW 72.65.010(3) and veterans' institutions
21 as defined in RCW 72.36.010 and 72.36.070, made by participating in
22 contracts for materials, supplies, and equipment entered into by
23 nonprofit cooperative hospital group purchasing organizations;

24 (7) Purchases by institutions of higher education not exceeding
25 thirty-five thousand dollars: PROVIDED, That for purchases between two
26 thousand five hundred dollars and thirty-five thousand dollars
27 quotations shall be secured from at least three vendors to assure
28 establishment of a competitive price and may be obtained by telephone
29 or written quotations, or both. For purchases between two thousand
30 five hundred dollars and thirty-five thousand dollars, each institution
31 of higher education shall invite at least one quotation each from a
32 certified minority and a certified women-owned vendor who shall
33 otherwise qualify to perform such work. A record of competition for
34 all such purchases made from two thousand five hundred to thirty-five
35 thousand dollars shall be documented for audit purposes; ((and))

36 (8) Beginning on July 1, 1995, and on July 1 of each succeeding
37 odd-numbered year, the dollar limits specified in this section shall be
38 adjusted as follows: The office of financial management shall
39 calculate such limits by adjusting the previous biennium's limits by

1 the appropriate federal inflationary index reflecting the rate of
2 inflation for the previous biennium. Such amounts shall be rounded to
3 the nearest one hundred dollars; and

4 (9) Purchases of products and services from a community
5 rehabilitation program as set forth in sections 1 through 10 of this
6 act.

7 NEW SECTION. Sec. 13. Sections 1 through 10 of this act are each
8 added to chapter 43.19 RCW.

9 NEW SECTION. Sec. 14. If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. Sec. 15. Sections 1 through 3 and 5 through 12 of
14 this act take effect January 1, 1998.

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